

These minutes were approved by the Hawai'i Island Burial Council as submitted, January 27, 2000.

MINUTES

HAWAII ISLAND BURIAL COUNCIL MEETING

DATE: THURSDAY, AUGUST 26, 1999
TIME: 9:00 A.M.
PLACE: HAWAII COUNTY COUNCIL CHAMBERS
25 AUPUNI STREET, SECOND FLOOR
HILO, HAWAII 96720

ATTENDANCE:

Members: Heather Cole Keolalani Hanoa
Roger Harris Perry Kealoha
Keikialoha Kekipi Kealoha Pisciotta
Charles Young Nalei Pate-Kahakalau

Staff: Kala`au Wahilani, Historic Preservation Specialist
Marc Smith, Assistant Hawai'i Archaeologist

Guests: Hokuli`a Cultural Descendants:
Hannah W. (Kane) Reeves
Gordon K. Leslie
Kaliko Chun
J. Curtis Tyler, III
George Mano Kona
Hokuli`a Lineal Descendants:
Emalia E. Keohokalole
Joseph M.K. Keohokalole
Rick Humphreys, Hokuli`a Development
Dick Frye, Oceanside 1250
Tom Dye, IARII
Stacy Uehara, Dwyer Imanaka
David Selwyn, Daxyn Trust
Ulu Garmon, Edith Kanaka`ole Foundation
Doug Borthwick, Cultural Surveys Hawai'i
Bruce Wilcox, Eco-Insight International, Inc.
Kepa Maly, Kumu Pono Associates/Eco-
Insight International, Inc.

Sheryl Seaman, Group 70
Wesley K. Saito, Group Management Inc.
Maile Akimseu, Friends of Keolonahiki
Susan C. Yonemura
Harry Y. Yonemura, Jr.

ABSENT: Marie Solomon (excused)
Geraldine Bell (excused)

I. OPENING REMARKS

Chair Nalei Pate-Kahakalau (Pate-Kahakalau) called the meeting to order at 9:30 a.m.

II. NO MINUTES SUBMITTED FOR APPROVAL

III. BUSINESS

A. HOKULI`A DEVELOPMENT PROJECT; TMK: 7-9-12:04; 7-9-12:11; 8-1-4:03; AND 8-1-4:56; NORTH AND SOUTH KONA; HAWAII ISLAND

Information/Recommendation: Recognition of lineal/cultural descendants by the Council, discussion of burial treatment plan, and testimony by lineal/cultural descendants regarding burial treatment.

Kala`au Wahilani (Wahilani) requested that based on genealogical records submitted to the Department, the council grant lineal descendant status to the Keohokalole Family who is represented today by Ms. Emalia Keohokalole and Mr. Joseph Keaweheulu Keohokalole. Their records indicate familial lineage to the burial of Kama`e aka Kama`eokalanai, grandmother of King David Kalakaua. These remains are buried at Pu`u Ohau within the boundaries of the Hokuli`a project. SHPD's Cultural Specialist Kana`i Kapeliela's Memorandum recommending that the council recognize the Keohokalole `ohana as lineal descendants is forthcoming in the mail.

A motion was made and unanimously accepted granting lineal descendant status to the Keohokalole `ohana in connection with the Hokuli`a project (**Kekipi/Hanoa**).

Vote: All in favor.

Wahilani requested that based on sufficient information provided to the State, the council grant cultural descendant status to Mr. Ed Kaiwi, Mr. George Mano, Ms. Naomi Napoleon, and Ms. Casina Waterman.

A motion was made and unanimously accepted granting cultural descendant status to Mr. Ed Kaiwi, Mr. George Mano, Ms. Naomi Napoleon, and Ms. Casina Waterman in connection with the Hokulū`a project (**Hanoa/Kekipi**).

Vote: All in favor.

Wahilani stated for the record that presently there are 16 cultural descendants and 1 `ohana designated as lineal descendants in this case.

Dick Frye (Frye) indicated that prior to any ground alteration activities, underground extensions of lava tubes will be mapped and their depth below surface determined. A preservation buffer zone will be established on the surface, the size of which will be determined by the survey of the underground extensions and evaluation by a geologist of the potential for collapse. For lava tubes determined to be stable, buffer zones around only the entrances will be required. For lava tubes determined to be vulnerable to collapse, a buffer corridor of 20' from the outside edge of the centerline alignment of the underground extensions of lava tubes within the potential areas of impact will be flagged on the surface. Frye said that there's a total of 15 lava tubes on the property that have confirmed burials or possible burials.

Wahilani stressed that the question before the council now is the treatment of the burial sites during construction. The cultural/ lineal descendants must keep in mind that the council's authority rests on whether or not these burials can be preserved in place or relocated and to make recommendations to the State in consultation with the cultural/lineal descendants as to how these burials should be treated. Presently, the project has 50' buffer zones around each burial site (*i.e.*, 50' from the center of the burial in every direction). Oceanside 1250 wants to reduce that buffer zone from 50' to 20' so the council is hearing testimony on this matter for preservation during construction (short-term preservation). Other issues at hand are long-term preservation and access. Buffer zones are implemented to protect the physical, as well as sacred, aspects of these burials. The families need to decide what level of maintenance they'll allow within these buffer zones, if any, in the future, what kind of landscaping in these burial areas, and what arrangements are necessary regarding access. There are burials that are located within lava tubes, within platforms, and in sand. The developer's desire is to preserve all burials in place so what you're deciding now is how to treat these burials.

Frye said that the 50' buffer zone was voluntary and wasn't a dedicated or approved buffer of any kind since no council action has been taken. Prior to ground alteration activities, the 50' buffer zone was implemented so that they could go in by hand and find out if there were any artifacts or other sites within the site or any other parts to the site that may have been overlooked at the time the original survey was performed years ago. Frye said that once that determination was made, that's when the possibility of reducing the buffer zone to 20', and in some places 15', on the surface areas was suggested as a permanent buffer zone because they felt it was a distance that provides respect, maintenance, and access to these sites.

Wahilani said that the council needs to first make a recommendation on the type of buffer zone desired during construction. There is no set legal definition of what a buffer zone should be because buffer zones vary from project to project.

Ms. Kaliko Chun (Chun), cultural descendant (from Kona), asked whether recognized cultural/lineal descendants in this case could see the areas so that they can more appropriately input their concerns regarding the buffer zones, and wouldn't the sizes of buffer zones vary from site to site rather than from project to project?

Wahilani replied that the council had conducted a site inspection before any cultural/lineal descendants came forward in this case. A site visit could be arranged through Frye.

Frye commented that over the years for various purposes, they've had about 3,000 people visit the site. Mr. George Mano (Mano), cultural descendant (from Kailua-Kona), asked why can't we make it simple? Just leave it alone.

Ms. Hannah Reeves (Reeves), cultural descendant (from Kona), said that she had testified on the Ali'i Highway case in moving the alignment of the road to help preserve and protect all the heiau, pu'u, ponds, and everything having to do with Hawai'i. Reeves said that it's so important to preserve our Hawai'i. It's good to develop, but developers come today and leave tomorrow; but we're still here. Listen to what our people say and want -- not put a buffer here, a buffer there until all of Hawai'i is buffers. We never had buffers before. It's not hard for us to say no. Reeves said that she's here to protect Hawai'i.

J. Curtis Tyler, III (Tyler), cultural descendant, requested that the council listen to what the families have to say and take no action or make no recommendations until all of the descendants present today are heard. Some have had the opportunity to review the plan and maybe others haven't. There are major revisions that are being proposed here.

Council Member Keikialoha Kekipi (Kekipi) stated that he's from Puna and is a lineal descendant of the people in _____. In 1994, his own 'ohana was desecrated and removed. Until 1994, there were no laws to protect any iwi through any way in Hawai'i. We voluntarily sit on this board and receive no monetary compensation, yet we live with all the kaumaha. Kekipi said that he never leaves this place feeling happy. What you must understand is that he sits on this council as a result of what had happened to him. This is his second four-year term. He hears from all kinds of people that come before this council who slaughter and throw everything at us. He is more against development due to what had happened to him. He has more empathy than anybody for what happens to lineal descendants. He fought for three years to get the name of the place of the iwi right back from this county. He fought for one year to bring back the iwi of his kupuna that he claimed lineal descendancy to. He had to work with the landowner, yet that is the 'aina of his kupuna. Aloha 'aina o kupuna. That is the piko of his family. When he comes here, know that he receives no monetary compensation and have no ties with the State or the developers. All we do is listen to your mana'o and make recommendations. That is the highest thing that we can go from. He always comes here and prays that

his kupuna help him for leave here with all of this kaumaha. We don't make the decisions. He's grateful for those that come before this council because if you don't come forward, you can't point fingers later on. We only make recommendations based upon information given to the council. Frye is one of hundreds of developers, but do you know how many years he's been working on this project? It is his kuleana to inform everyone that he's here because of his culture and his kupuna, without receiving any form of compensation. Kekipi expressed his mahalo and excused himself.

Pate-Kahakalau said that Kekipi speaks pretty much for most of this council. We take our responsibility very serious. He can guarantee that their kuleana is to the burials. That is what the council is here for.

Council Member J. Keolalani Hanoa (Hanoa) said that the only reason she took the position was to protect the concerns of our people and kupuna. We do care, and this was the first chance we had a voice within state government to make the necessary changes and do something about it.

Mr. Joseph Moses Keaweaeheulu (Keaweaeheulu), lineal descendant, expressed that he feels the kaumaha the council feels and feels the kaumaha from the kupuna. Keaweaeheulu asked if the buffer zone is a permanent thing or just a construction distance? Frye replied that the 50' buffer zone is temporary, and that the 20' buffer zone is permanent -- no construction -- and the perpetual easement will be reflected on a map which will be recorded at the government offices.

Keaweaeheulu said that one of his concerns was not seeing the word "forever" anywhere in the plan. He wanted to ensure perpetual access to Pu`u Ohau. Another concern is that he was thinking of fencing instead of signage. Frye indicated that the perpetual easement for the entire conservation district includes all of Pu`u Ohau and the burials that are up on it.

Ms. Emalia E. Keohokalole (Keohokalole), lineal descendant, testified that after reading the plan, she and her brother, Keaweaeheulu, talked about perpetual access so that whenever they're in Kona, they may have accessibility to that mauna so that they can give their ho`okupu. Through the assistance of Wahilani, she and Keaweaeheulu was allowed to climb that pu`u and take their ho`okupu. They spent some time there with their kupuna, and they appreciated that time. They're educating themselves better on how to spend more time with them. She expressed her thanks to both Wahilani and Frye. Keohokalole said that she's not an expert with respect to construction but that some sort of enclosure is preferred so that it's not subject to vandalism, etc. She said that the council has their support. We just need time to get explanations to understand what's happening and don't want to be disbarred from access to that site because it means a lot to them.

Frye explained that the people who they would sell the property to and, subsequently, anybody they sell it to, etc., they take their title subject to the rights of others. Those rights are spelled out in the CC&Rs, and the actual easement is also shown on the recorded map which is by which they take their title as well. Their lot shows an easement that covers that, and that easement is for those who have the rights to use it. We have to make a determination as to a person's right to access. Everyone that the State certifies would obviously have those rights. If it's someone that's not on the list, we might have to ask

them to be certified or maybe some other mechanism for them to know that they do have the right to be there and make sure they're letting people there who have the right and not those who don't.

Ulu Garmon (Garmon) stated that in the past, the burial council, in agreement with the State, did authorize that in the event not all the family members can be present, one or more persons could represent the family upon those family members' written consent to do so. Thereafter, anything that is needed to be discussed is done so through the designated representative(s).

Maile Akimseu (Akimseu) testified that in 1990, she had an opportunity to visit the project site. Akimseu said that it's a beautiful place that's full of history, and a huge heiau is located there. Akimseu said that she represents and is the president of the Friends of Keolonahihi. She asked if she could review the project plan in order to work with the developer.

Wahilani read for the record a letter dated August 24, 1999, addressed to the Hawai'i Island Burial Council from Pauahi Lozano, cultural descendant (see Exhibit "A" attached hereto) and a letter dated August 13, 1999, addressed to the Burial Sites Program from Clarence A. Medeiros, Jr., cultural descendant (see Exhibit "B" attached hereto).

Frye reiterated that a 50' buffer zone is being implemented for all sites and lava tubes during the pre-construction period which they're in right now.

A motion was made and accepted to receive testimony from all of the lineal/cultural descendants before the council makes any decisions on Oceanside 1250's plan, including any revisions to the plan (**Hanoa/Kekipi**).

Vote: 7 ayes; 1 nay (Harris)

Hanoa recommended that the buffer zone remain at 50' during construction.

Chun suggested to Wahilani that before the lineal/cultural descendants can provide meaningful input to the plan, a site visit should be conducted and a separate meeting should be scheduled with the lineal/cultural descendants to explain this entire process. This should be done before the next scheduled council meeting in order for the plan to be up for council determination.

A motion was made and unanimously accepted to defer any further action on this matter until the lineal/cultural descendants and Burial Council Members who haven't seen the project site conduct a site visit prior to the next Burial Council meeting in September when this item will be up for final determination (**Hanoa/Kekipi**).

Vote: All in favor.

B. DAXYN TRUST; TMK: 7-7-10:13; KAPA`ALAEA; NORTH KONA; HAWAII ISLAND

Information/Recommendation: Presentation by Scientific Consultant Services and Mr. David Selwyn regarding burial treatment plan.

Pate-Kahakalau announced that when site-specific burials are discussed, the room is cleared, except for those individuals related to this case.

David Selwyn (Selwyn) testified that he's lived in Hawai'i since 1969 and this property is now second generation in his family. He has no Hawaiian ancestry, but has Cherokee ancestry. Although we have different traditions, we share equal importance on matters. He said that he tried to put together a plan that meets all the concerns that exist. The two objectives in designing the plan was 1) the protection of the iwi that were found there and 2) the safety for the public and the property owners. The bones were found in a mortar and stone crypt that was located beneath the habitation area immediately adjacent to the shoreline. The area is very accessible by the public. Selwyn said that he wants to build a wall along the shoreline and backfill with similar material that would be from the site itself. Instead of marking the site as a burial, Selwyn wants to put plantings over the area (naupaka and morning glory). Selwyn prefers Proposal #1 which suggests as is preservation in place and construction of a mortarless stone wall face. This lot is one of the few that haven't been developed yet. The property is zoned residential.

Wahilani said that there are several individuals going through the cultural descendant certification process now.

A motion was made and unanimously accepted for the council to conduct a site visit for Thursday, October 21, 1999, at 9:00 a.m., before the regularly scheduled burial council meeting at 10:30 a.m. (**Hanoa/Kealoha**).

Vote: All in favor.

Selwyn said the site is south of Magic Sands Beach; he'll provide maps, instructions, and addresses of neighbors.

C. GROUP MANAGEMENT INC.; TMK: 7-5-20:22, 24, 28, 34; PUAPUA`A IKI; NORTH KONA; HAWAII ISLAND

Information/Recommendation: Presentation by Cultural Surveys Hawai'i and Group Management Inc. regarding burial treatment plan.

Wes Saito, President of Group Management, Inc., represents the owner of the 12-acre parcel in Puapua`a on the makai side of Ali'i Drive. The owner, Yoshigi Kanazawa, is a Japanese National who would like to build a corporate retreat for his employees.

There are historical and archaeological sites on the property, including a heiau that contains at least four burials. The present landowner is committed to preservation, in place, with an appropriate buffer zone (100') inclusive of all three sites. The Burial Treatment Plan ("plan") documents previous archaeological studies of the entire project area to provide an overview for the decision-making process for

preservation of the sites. The landowner has also independently undertaken additional historic and lineal descendant research. The landowner will work towards a community-oriented stewardship program as the development progresses through the design and construction phases.

The landowner is looking to build something that would have a large communal living room and dining area, a big lanai and kitchen, bedrooms, and a tennis court and swimming pool. The facilities would accommodate about 10 families. The site has been cleared, and most of the trees that were on the site have been preserved. They'd like to preserve the view of the sites along the coastline. They're basically here to receive input on access issues, landscaping plans, size of buffer zones and whether from centerline or outer edge of sites, signage, etc., before any plans are even made.

A motion was made and unanimously accepted that the council conduct a site visit of the project site on Thursday, September 23, 1999, at 9:00 a.m., with the burial council meeting to follow at 10:30 a.m. (Young/Kealoa).

Vote: All in favor.

D. CASE UPDATES

Information/Recommendation: Discussion of recent inadvertent discoveries and staff updates on ongoing cases including, but not limited to, Hokuli`a, and any other follow up by Burial Sites Program staff.

Marc Smith (Smith) reported that there was an inadvertent discovery at Sandalwood Subdivision in Waimea. The owner was grading for a new home and hit four burials. They were real shallow in the grass on the surface. The one that was still relatively intact looked like it had been exposed previously. Smith said that he had collected all of the remains up there, and the owner is willing to rebury them with 4' - 5' of its original location. Smith said that the remains are presently being curated by SHPD.

Wahilani said that since the grading had started at the Hokuli`a project, there have been 10 burials that the State is considering as inadvertents. These burials are not within the scope of the burial treatment plan. Three of them are in house lots, and five or four of them are on the fairways. We want to keep them in place and establish the same buffer zones that are in place right now (50'). Those within the house lots haven't been determined whether or not they will pose significant development problems.

Wahilani reported that documentation was provided to the council regarding Consultation on Traditional Hawaiian Places in the Lower Hamakua Ditch Repairs Project Area. If you are aware of any historic site that may be affected by this project, please contact Cultural Resources Specialist Carol Kawachi at the NRCS Kealakekua Field Office at 322-2484.

Hanoa reported that there's a cave called Turtle Back Cave in Ka`u that contains iwi on shelves, as well as a turtle carved out of pohaku with petroglyphs all over it. Hanoa felt that the council and Smith should check it out and possibly conduct a site visit. Her fiancé and her mother knows how to get

there. Permission must be obtained from MacNuts/AgriBusiness because they are the property owner. Hanoa stressed that the iwi needs to be protected. Wahilani said that Smith can work on mapping the cave and it can be placed on a future council agenda.

IV. ANNOUNCEMENTS

It was decided by the council that the next meeting will be on September 16, 1999.

V. ADJOURNMENT

There being no further business, the meeting was adjourned.

Respectfully submitted,

Michelle K. Bradley
Historic Sites Preservation Specialist